In some Remarks on a Paper of David Lloyd's, called A Vindication of the Legislative Power. Submitted to the Representatives of all the Freemen of Pennsylvania.

[Si mihi perrit qua vult dicere, ea, qua non vult audiet, Terent.]

A N Extraordinary Step in Politicks having been made here last Winter, the Matter was drawn into a Controversy, which notwithstanding the Design in bringing it on the Stage, was managed with an Appearance of Decency towards the late Proprietary and his Family; till our present Chief Justice David Lloyd, finding one Side of Dispute carried an Air of Opposition to that Interest, which he had for many Years past taken too much Pleasure in opposing: He could not, it seems, let slip the agreeable Occasion, without indulging his Inclinations in a Performance, to which, whether he had any justifiable Call, will appear from the following Remarks on it.*

The Case itself is this,

The Proprietary, in appointing his Deputies in Government, ever gave them Instructions for their Conduct, which were nearly the same to each successively, since his last Return to England; and from our present

*It was in reply to David Lloyd's "A Vindication of the Legislative Power," Submitted to the Representatives of all the Free-men of the Province of Pennsylvania, now setting in Assembly." [Philadelphia: Andrew Bradford. 1725. Folio, pp. 4.], that James Logan published "The Antidote." In the Americana Division of the Historical Society of Pennsylvania will be found both Lloyd's and the two editions of Logan's publications. The second edition of "The Antidote" differs only in having ten lines added; an "Advertisement" of six and a half lines, and then three lines of "Errata." It is this edition we reprint.
Governour a Bond was taken for the Observance of those to Him, of which the Principal were these, To suppress Vice, and discourage Faction: To be advised by the Council in all Things of Moment: Not to intermeddle in Affairs of the Proprietary's Lands: To preserve a good Understanding with our Neighbors and Indians: To guard the Religious Rights of the People, and above all, to Maintain Liberty of Conscience: And some of these, especially in relation to the Concurrence of the Council, from an Occasion given, were lately prefs'd further, in certain private Instructions, which by the Governour's communicating them to the Assembly, have been published to the World. This Piece of Conduct produced from me a Memorial to the Assembly; and this Memorial an Answer to it from the Governour. David Lloyd was so highly pleased with the Performance in this latter, that, to express his Satisfaction and perhaps in Return to the Complement pass'd upon him, when on Occasion of these Debates, he was term'd our Oracle of the Law, he thought fit to step out as a Champion for the Cause, and from the Treasures of his Profession, to undertake by Legal Authorities, as he calls them, to make it appear, that It was not in the Proprietarys Power to lay his Deputy under any Restriction: That the Governour cannot be bound by any Instructions, save what relate to his Allegiance, the Acts of Trade, and the Constitution: (So that even in Affairs of the Proprietary's Lands and Rents, he is free to assent to what Acts he pleases) and that the Obligation taken by the Proprietary, for his Security, is against Law, and utterly void. And then he advances to treat the Proprietary himself so injuriously, and load him with such Reflections, that it may justly raise our Astonishment, how a Person cloth'd with a Profession, which ought to imply that lovely Spirit of Meekness and Charity, which makes the true Characteristic of the Christian Religion, should
for so long a Tract of Time, foster the contrary Spirit of Revenge, and breath it out against the injured Object of his Resentments, not only during Life, but now for seven Years after his Decease. A Persecution unknown even to ancient Pagans, whose Sayings on this Head ought to load some Christians with Confusion.

To that Performance, tho' in Appearance principally pointed against me, as well as to others of the same kind, I resolved to be silent; having been long satisfied on my own Account that Time seldom fails to do Justice to Truth in such Cases, and that while my Benefactors own me Grateful; while my Employers after Twenty-Five Years Experience acknowledge me Faithful; while my Creditors confess my Justice, and all Attempts against my Reputation, in Point of Honesty, return only on my Accusers Heads, it is not worth my Time, to be at any Pains in my own Vindication, to those who advise with their Consciences, in forming their Judgments; and the Sentiments of others, I shall ever disregard. But having been lately assured in the County of Chester, that the Author has endeavoured there to recommend himself as a Patriot, by that Paper and to diffuse the Venom of it amongst the People, I think it my Duty to give it a proper Antidote, by shewing, that his Law is misapplied, his Reasoning false, his Reflections on the Proprietary, unmerited and unjust, and that the whole Performance, instead of being a Service to the Publick, is truly a Dishonour to the Government.

To begin with his Legal Authorities, offered, as is pretended, in Favour of the Rights and Liberties of the Subject, and the Regular Power and Franchises of Government, yet wholly confined within the narrow Limits of this single Point, That a Deputy cannot be restrained by his Principal; he produces only two reported Cases; the first, in their natural Order and in Time, is from Hobart, page 12. where Sir. D. Norton

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High Sherif, appointing one Chamberlain his Deputy, took a Bond with Security, to indemnify his Principal from Escapes, &c. with this farther Condition, that the Deputy should not execute any Extent, &c. for above the Value of Twenty Pound without Notice first given to the High Sherif, and a Special Warrant obtained of him for the same.

The Sherif sued the Bond on an Escape, and had Judgment by the whole Court, on that very Bond, which therefore with D. L’s Leave, was not declared void but that Part of the Condition by which the Deputy was restrained from executing Writs, &c. above a certain Value, was declared so, for these plain Reasons, as they naturally arise from the Report, viz. That a Sherif, being in relation to the Service of Writs, &c. only a Ministerial Officer, he must execute all the Legal Writs, that are brought to him, in which the King himself cannot abridge his Power: That having appointed a Deputy, that Deputy is under the same Obligations, and cannot be restrained by the High Sherif, any more than the High Sherif can be restrained by the King. And that this is highly reasonable, as well as tis Law, is what every rational Man must allow, for otherwise had the Sherif any such Power, he surely might deny or delay Justice.

This is an approv’d Case, and is universally allow’d, but what Relation it bears to the Matter in Question, is submitted to the Judgment of every impartial Man to determine. The other is an extraordinary One; and that it may be the better understood (if that be possible.) I shall here give it at large, in the Words of the Book, as it stands in Page 95. Of Salkeld’s Reports, published in 1717. viz “Charles Kett being seized in Fee of a Copyhold, demised it to his Wife for Life, Remainder to Charles his Son in Tail, and if he died without Issue, under Age Remainder to Elizabeth his Wife in Fee. M. Keck the Master in Chancery was
Steward of this Mannor by Patent, ad exercendum per se vel deputatum. M. Keck appointed one Clerk to be his Deputy, who acted as such many Years, and was sent for by Chas. Kett, to take a surrender of the Lands. Clerk went not himself but by a Writing under his Hand and Seal, appointed A. and B. to be his Depu- ties jointly and severally, only to take this Surrender, which was done by A. accordingly, and afterward presented and Elizabeth Kett the Defendant admitted thereupon by Clerk." Here the Point in Question, as far as it can be collected from the Report, which is exceeding imperfect, was, Whether A. Deputy to the Deputy Steward, had good Authority to take the Surrender? The Court judged he had, and in delivering their Opinion, Chief Justice Holt is said to have express'd himself in the Terms transcribed by D. L. in eight or Ten Lines of his Paper, in which these three Things are very surprizingly asserted, viz I That a Deputy has full Power to do any Act or Thing, which his Principal may do. II. That a Man cannot be a Deputy to do any single Act or Thing. III. That a Deputy cannot make a Deputy. Now unless, whatever is delivered to us, by the Name of Law, is to be implicitly believed, as a Matter of Faith, without the Use or Exercise of our Undestandings, we may without Breach of Modesty, say, that all these Assertions are irreconcileable to the known Law of the Land, or to the Case itself, in the express Words of it. For to the 1st, 'tis well known, (and Judge Hobart, in the first Case, gives some Instances of it) that there are divers Things, which a Sherif (the Officer mentioned in both Cases) can and must do in his own Person, which his Deputy cannot do. 'Tis therefore not true, that a Deputy has full Power to do any Act or Thing, which his Principal may do, as this Book expressly has it. To the II.d, in the Case before us, "A and B. are ap- pointed by Clerk to be his Deputies jointly and Sev-
erally, only to take this Surrender, which was done by A. accordingly." And this by the Judgment of the Court was allowed to be good: Therefore, either this Judgment was wrong, or otherwise it is not true, That a Man cannot be a Deputy to do any single Act or Thing only. Besides, that Deputies may be appointed for one single Act or Thing, as well as Attornies are appointed to receive one particular Debt, to confess one Judgment, &c. is so clear, and well known, that it needs no Words to confirm it: And this very Case in the subsequent Reasoning, implies it. To the III.d, in the same Case, "Clerk Deputy to Keck appointed A. and B. his Deputies, and the Appointment was judged good: Therefore, either this Judgment was wrong in this also, or else it is not true, That a Deputy cannot make a Deputy. I can also shew him an indisputed Authority where it is said. That the Deputy of the Deputy is the Deputy of the first Officer, Altho' there be twenty, the one under the other, &c. But the Law is not my Business, and I choose to argue only from D. L’s own Quotations. He has therefore been extreamly unfortunate, in this printed Essay of his Skill, after a Practice of above Forty Years, in producing an Authority, in order to prove a certain Bond void, from a Case, in which Judgment was given for the Plaintiff, on the Bond there sued by him. And yet much more so, in bringing in for his main Support, another Case which, could his Eagerness for the Cause have allow’d him Time to consider it, he might easily have perceived is inconsistent (as the Words stand there fairly printed) with it self, with the Law, and with common Sense and Reason.

But it may be charged as a Presumption in one, who makes no Pretence to Skill in the Law, to question so great an Authority as Sir John Holts, deliver’d in a Book (in Appearance) so pompously recommended by the late Lord Chancellor and 12 Judges; And I should
freely acknowledge it a Piece of Arrogance, if such a Person as I, should oppose the real Judgment of that great Man, tho' I find his opinion after learned Arguments, and long Discourses used on the Bench to support it, has sometimes been over-ruled by the other Judges; as in the Case of Lane v. Cotton, &c. in the same Book, Pag. 17. But the Opinion, as 'tis printed in the Case before us, is so exceedingly inconsistent, that I take it to be incumbent on us, in respect to that great Name, now to allow it to be His. Serjeant Salkeld, from the Character given of him in the Front of the Book, was undoubtedly an able Lawyer, but the Work itself is posthumous and published (in Confidence, it may be presumed, that the Elogium of the Man, might pass for one to the Book itself) without any Manner of Account, in what Condition these Reports were left by the Serjeant at his Death, by whom they were digested, or whether ever they were revised; all which is generally expected in posthumous Pieces, to prevent the World's being imposed on by Booksellers, or others, who resolve at any Rate to make a Penny by their Publications and most commonly by ostentatious Proposals for Subscriptions. But however this be, 'tis evident not only from this Case, but several others, that the Book wanted the last Hand or the Author. Now is this singular, for divers printed Cases have been afterwards adjudged not to be Law, and as Chief Justice Holt himself frequently observed of some others, that they were misreported in the Books. He could not but have pass'd the same Censure, and probably with more Resentment had He lived to see this published, as from Him with such Imperfections.

But as 'tis no uncommon Thing for Lawyers to be at a Plunge, not only with Book-Cases, but even with Statutes; The Rule then is to expound the Law by the Reason of it, and this in our Case (if I mistake not) will render the Matter plain, viz. In all Cases, where
the Principal has it not in his Choice, whether he will
do an Act or forbear it, as a Sherif in the Execution of
Writs, these his Deputy is equally obliged, and his
Principal cannot restrain him; nor is there one intel-
ligible Case in the Books (if I am rightly informed)
that will carry this Point any further. But where the
Principal is not obliged by the Course of the Law, to
do any Act, or to do it in one Manner more than in
another, but is to apply Justice, Wisdom, and provident
Circumspection (The Words in the Royal Charter in-
troductory to the Grant of Powers) in deliberating
whether, or in what Manner, it is to be done; there I
presume no Man of Skill and Integrity will pretend,
that a Deputy, to such a Principal, may not be re-
strained by Instructions. Deputies are of various
Kinds, and the Nature of their Office or Trust gives
the Rules for them. Those for a Deputy Sherif are no
more to be applied to a Lord Deputy of Ireland; than
the Law of a Constable, to the Office of an Admiral.
It springs from a Narrowness of Conceptions, peculiar
to some Men, to argue from a Word or Name, without
Regard to the Nature of the Thing in Question: And
it would be equally absurd to apply the Rules for one
Kind of Deputy (excepting that great one of Fidelity)
to all others, because the Word every where consists
of the same six Letters, as to argue from the Books,
that because a Serjeant in Westminster, must appear
at the Bar, in a white Coif, therefore Serjeants with
Maces or Halberts, must present themselves in the
same whimsical Dress, in their respective Duties and
Stations. But from what honest Principal D. L. should
on the late Occasion, think it incumbent on him, by
his Judgment in the Case, to set the Governour at large
from any Obligations, when he cannot but know the
Law is, That for a Deputy, Respondat Superior (the
Principal must answer) or how he can answer in his
Station, for giving any Judgment on a Bond, that is
not yet before him, (which is just of a Piece with acting
the Barrister on the Bench) I shall leave it to himself
to account for to such as believe his Character gives
them a Right to demand an honest Reason for the
several Parts of his Conduct.

And having thus far done with his Law, to bring the
Matter to a short Issue, I here engage to deposite two
English Counsels Fees, against one from him, if he will
venture on the Decision of the Learned there, that I
have here interpreted the Law about Deputies right
and that he has officiously mistook in his Judgment, for
which Reason, among divers others, I presume, it will
never in these Cases, be referr’d to.

In closing his Authorities, he says "It was the Case
in Hobart which [in the Year 1704.] govern’d the
Opinion of the Council (when Judge Mompelson as-
sisted) to declare that Part of Colonel Evan’s Com-
mission void, which reserved to the Proprietor the final
Assent to all such Bills as he passed into Laws, and
therefore admires that I, who was not only present at
those Debates, but either drew up or copied and signed
that solemn Resolution, can so strenuously insist upon
the Restriction now in Debate, &c.’’ and on the other
Hand, I cannot but admire, that he should either furnish
the Governour with this, or produce it himself, as if
it were at all to the Purpose, or that because he cited
it to R. M. he could imagine the Council wanted a Law-
Case to inform them, of what from the King’s and Pro-
prietor’s Charters, before them, was so plain, that it
could not possibly want such Explication.

But pray, what is that Opinion to the Point in Hand? The whole is printed in the Paper called, The Gov-
ernour’s Defence, &c. and is only this, that the saving
there mention’d, was void in it self; but did not vacate
the rest of the Commission; and that the Laws pass’d
by Governour Evans, under the Great Seal, could not
be annul’d by the Proprietary, without the Assembly.
Now I would ask, by what Kind of Reasoning it will follow, that because, a Law, when pass’d under the Seal, cannot be annul’d by the Proprietary, but is binding upon Him, therefore (tho’ all our Laws derive their Force from His Authority) He has no Right to direct in the passing of them, when the very Reason here given, shews the Necessity there is for his Caution. Which is much the same, as if it should be argued, that because Lands sold and convey’d by an Attorney, fully impower’d, are no longer the Constituent’s, but the Purchaser’s, therefore a Constituent has no Right to limit his Attorney: or because a Marriage consummated, cannot be annulled by Parents, therefore Parents have no Right to restrain there Children in Marriage: A kind of Reasoning that I confess, is well adapted to the Law we have had, and therefore I am pleased to see them come so naturally together.

I must here also mention another old Nostrum of D. L’s, which he has laboured to inculcate, and of late with some Success, viz That because the Proprietary cannot make a Law without the Consent of the People (a Restriction which the happy English Constitution indispensibly requires) therefore no others can be concerned in Legislation, but the Proprietary himself or his Deputy, and the Representatives of the People; which has of late been largely insisted on, and to support the Opinion, the Words of the Royal Charter have been prolixly quoted: Upon which I shall here discharge, what I have been told, was incumbent on me, viz. To shew by what authority I look upon me, to expound those solemn Evidences for our Constitution in a quite different Sense (as ’tis said) from all others who have yet consider’d them, by frankly declaring that I never expounded these Words of the Charter in a Sense differing from any Man I ever knew, or heard of. D. L. and those who borrowed of him only excepted, That the Language in granting the Powers of
Legislation, in the Royal Charter for this Province is exactly the same with that for other Proprietary Governments. That Maryland is the ancientest Government of that Kind now existing, that I know, as we are the latest; and that in Charter for that Province, the Words by which the Assent of the People in Legislation is required, are so exactly the same with those in the Charter for this Province, as the Copies lately printed here will fully show, that they have both been undoubtedly from the same Draught. And to close the whole, That, in Maryland, (as well as all the English Colonies, this only excepted) they have, and ever had a Legislative Council, upon the foundation of the same Words, and no other, which from our Charter are advanced to prove, it is not in our Power to have One. I am therefore not the only Person, who has expounded these Words in that Sense, because in our Great Grandfather’s Days they were in the same manner expounded, and thro’ several Generations, have continued the same to this Day. I would not however be thought desirous to renew that Argument, which by this Time is brought before its proper Judges; but I take this Occasion, as a very fit one to discharge so incumbent a Duty, which, I hope, will be receiv’d, as fully satisfactory, by those who imposed it.

What next ensues, is an Instance for such mean spirited Envy and Prejudice, that it would extort one’s Pity; for speaking of our Constitution of Assemblies, tho’ he well knows, that by the Royal Charter, their Manner of convening and whole Establishment, entirely on the Proprietary, yet lest any Honour should redound, or Gratitude be thought due to Him, he turns off the whole (in his 7th Paragraph) to an Act of Assembly passed in the 4th of Queen Anne, and from that Act declares the Privileges of our Assemblies, as if from thence they were deduced to us; When we must either suppose him exceeding ignorant in his Station, or
else allow him to know, that from the Act he mentions, there is not one single Privilege derived; and that in these Points, it only repeats the Exact Words of the Proprietor's Charter, without the least Addition, Explanation, or Variation whatsoever, and if he knew this, what an Excess of Biass must it require, to translate that to another Merit, which was purely the Proprietary's gratuitous Grant in his Charter? Tho' had the whole been founded on such an Act, it would have argued the same Goodness in the Proprietary, exerted either by himself, or by that Deputy who pass'd the Act viz, Colonel Evans, whom he elsewhere treats so injuriously, tho' he pass'd not only That, but near as many others in Number, with One Assembly, and many of them very valuable, as have been enacted in this Province, in the Ten Years last expired. From the same Spirit, is also that trifling Cavil in his 16th Paragraph, at my terming the Proprietary the Founder of this Colony; a Title the Governour freely allow'd, in repeating it with a kind of Applause. But D. L. must omit no Occasion, it seems, of shewing that in these Cases, he cannot change. In the next Paragraph to this, viz the 17th, without any Manner of Occasion given, but from the Overflowings of his Heart, he pushes out his Reflections in a Torrent: The first of which is this, The first Purchasers (says he) bought their Lands dear, and came under perpetual Quit-Rents, which far exceeded what the Proprietors of the adjacent Provinces required of their Tenants. And if this were true, as 'tis, egregiously false, Pray what was that to D. L. who neither was one, nor was then perhaps in a Condition to be one of these Purchasers? The first adventures into America run extream Hazards, and paid dear for their Settlements with their Blood; those of the Virginia and Maryland having sometimes lost Hundreds, in a Battle with the Indians. But for some Years before the Grant of this Province,
then almost surrounded with English Colonies, I have not heard of One English Life lost, by any Act of Hostility: Which therefore might justly make some Disparity in the Consideration, to be paid for Lands here; and yet we shall find this Difference lies just on the other side. In Maryland the first Quit-Rents were two Shillings Sterling in Gold or silver, for one Hundred Acres. Afterwards they were raised to Four Shillings: And if there has been a Relaxation, it was for the valuable Consideration, first of Two, and now of Three Shillings, paid to their Proprietary in Britain, for every Hogshead of Tobacco shipt in the Country for that Kingdom, which amounts to much more, than all the Quit-Rents ever did: Besides that they now also pay Purchase Money. In Virginia and New York, the Quit-Rent to the King, is Two shillings and six pence per Hundred Acres; and the Charges of the Grant (especially in the latter) equal a Purchase. In North and South Carolina, (Proprietary Settlements) they are a penny per Acre: In Jersey the whole Country being entirely sold off to certain Purchasers, they could reserve no Quit-Rents to themselves, but for the Lands granted, before the sale, to others, about Four Shillings per Hundred is required.

These are the terms in the Neighbouring Colonies; when in this Province, the Conditions were only Forty Shillings per Hundred Acres, and the Quit-Rent but one Shilling, which is so far from being the highest, as D. L. falsely affirms, that it is evidently the lowest that has been set in any of the Colonies round us. These, I say, were the Terms of the first Proprietor’s Grants to the Purchasers: And when they were published, it was undoubtedly surprizing to see what Numbers, with Gladness accepted them in order to quit their native Soil, their Friends and Relations, and to trust themselves with their Families, on the boisterous Waters, to which most of them had been utter Stran-
gers. No less than 32 Ships (as had been affirmed) came in the first two Years, freighted with Passengers and their Goods, to seat themselves in a Wilderness, under the Government and Conduct of that great and good Man, who maugre All that D. L. can offer to the contrary, will still be justly stiled the Founder, as he was the Father of this Colony. Then, delivered from the Severities of that Reign against Dissenters, and arrived in a Land, that upon reasonable Endeavours, yielded the agreeable Prospect of Plenty; Love united their Hearts dilated with Joy, and thro’ a Desire, at least, to presage the best, viz the Continuance of it, the Capitol Town, as I have elsewhere observed, had the Name given it of Brotherly Love: then, Freedom to the people, with the full Enjoyment of the Faces and Company of their Friends, without Restraint, was sufficient Happiness. The Proprietor, with the vast inward Satisfaction, of having contributed to the Ease of such Numbers, saw himself surrounded, with grateful Hearts, and cheerful Countenances, the Acknowledgments they joyfully returned, for the Paternal Affection and Tenderness extended to them, by their Proprietor, Governour, and Friend, united in one Person. They were then, as the Israelites, after they had seen their wonderful Deliverance thro’ the Red Sea, before any Corah or Dathan appeared, and so for some Time continued: But as those chosen People had some such amongst them, as charged their mighty Leaders with taking too much upon them, so Here, Instruments started up.—But I must end this Digression which I hope will be excused, as the natural Result of an honest Indignation, at the Vileness, and such Falshood and Malice, thrown out, without any Provocation, against the Deceased, whose Memory, the Europeans here (after the Example of the poor Native Indians) unless abandon’d to the foulest Ingratitude must forever Revere.
He goes on in the next Sentence to say, But when they came to be handled in Secretary Logan’s Office they were told they must pay Half a Crown, or a Crown English Money, for every City-Lot for ever, which the Proprietor had freely given to his Purchasers, expecting, as was thought, but Twelve Pence Sterling per Annum, for every Hundred Acres of their Land. And here again, is an exact Match to the Preceding. The Proprietor granted Lands to the first Purchasers, by Deeds of Lease and Release, referring for the manner of Location, to certain Concessions, by which concessions it was agreed, that there should be laid out in the City Liberties, two Acres for each Hundred of the first Five Hundred Thousand Acres purchased. But of other Lots in the City, there was not the least Mention: For this the Proprietor most judiciously reserved to himself, that not only those Purchasers (tho’ they had vastly the Preference) but all others who might incline to build in, and improve the Town might be accommodated. On laying out the City in 1682. the Rent was fully settled between the Proprietary and the Purchasers at Five Shillings for one Lot of 102 Foot in Breadth, the whole Length between the Front and Second-Street, and the same for 132 Foot in the High-Street, Two Shillings for 51 Foot on the West-Side of the Second-Street, and part of Chestnut-Street, and One Shilling for about 50 Foot in all the other Streets, then designed in the City Plot: But for these last, such as were no Purchasers (commonly called Renters) paid about 5.s. more or less. Now, where or how D. L. might then be passing his Time, is out of my Reach to guess; but sure I am, that I was scarce well out of Coats, when these Renters were not only settled, but most of the valuable Lots were confirmed on those Terms by Patent, under the Proprietor’s own Hand, of which D. L. who had been a Conveyancer here, for at least twice Seven Years, and Deputy Recorder for
many Years, before the Proprietary's last Arrival, could not possibly be ignorant. And when Eighteen Years after that Agreement, I came into the Office, I strictly pursued the same, to the best of my Knowledge in the few Lots, that then wanted Confirmation; or if I ever miss'd it, 'twas by Misinformation only. This Assertion therefore, that Half a Crown or a Crown Yearly was demanded from every City-Lot is so notoriously false, and the intended Insinuation against the Proprietor, so dishonourable that I shall say no more of it, than to leave those who can approve of such Publications, to make it up with their own Con-science; for the Author (I much doubt) is in these Cases past Reproof. No Man being more sensible than himself how trifling these Reservations are, when compared with the Value of the Lots; seeing he received from me, One Hundred and Seventy Five Pounds for one vacant Lot, for which the Proprietor had no other Consideration (besides his Benevolence to the first Purchasers) than two Shillings Sterling Yearly.

He still proceeds in the same Paragraph, to say, And when they came for their Patents, there was a Reservation of three full and clear fifth Parts of all Royal Mines, free from all Deductions and Reprisals for digging and refining the same, whereas the Royal Charter had reserved but one Fifth, &c. Sure D. L. would not have it thought, the Proprietor accepted of this Province from the King, in Trust only for others, without any Interest to himself: If not, why might he not reserve his own? Those Mines never pass in a Grant; but where they are expressly named. But they were named in none of the English Deeds, I ever saw; therefore what Part of them, the Proprietor was afterwards pleased to grant, appears to have been a Favour, and as such claims an Acknowledgment instead of a Reflection. And now having in this Paragraph, thrown plentifully about him, to give it the better Countenance,
as if leveled at me only; he winds it up with referring to the Journals of the House for divers other Instances of my Abuses and ill Treatment of the People; that is, such other Instances as the preceding: for I challenge the World to produce either from those Journals, or otherwise, one Instance of my having knowingly wrong’d any Man, either in my Publick or Private Capacity, since I first knew the Difference between Wrong and Right: And in this I cannot but think myself fortunate, that tho’ I entred young into very great Trusts, which the Proprietary (neither by my Seeking, nor with the Approval of my own Judgment) was pleased to repose in me, yet when my Fidelity to my Master turned his Enemies upon me, and my Reputation and Conduct was racked, as on the Tenter, and pryed and searched into, with the most rigid Scrutiny that ill nature could apply, all my Crimes were made up of such Articles as those now brought by D. L. in that invidious Paragraph, on the Stage.

In his next he says, I reflect, pretending the Lieutenant Governour was referr’d to the Proprietary’s Quit-Rents for his Support. And surely I may well pretend it, when I can shew it under his own Hand. But on that just and plain Observation, in my Memorial viz, that “If Lieutenant Governours are not liable to any Restrictions,” seeing the Proprietary in his absence, never received one Penny to himself, or his Family from the Government, tho’ others have had large Sums; it would be much more eligible and safe for the Proprietary, when He could not personally reside in the Province, to divest himself of the Government, and resign to the King, under whom He might be sure of such Orders, which must then be necessarily obey’d (tho’ his own might not) as would effectually secure him against all Infractions on his Proprietary Rights.” D. L. with a singular Turn is pleased to say, Now if this has any Meaning, it must be concluded
that Colonel Evans, [Here he knows the Person, it
seems, who was referr’d to the Quit-Rents, tho’ just
now it was called a Pretence] was deny’d Support, and
our present Governour has had large Sums from this
Government: If so, then it plainly shews the Difference
between acting as a free Agent in Affirmance of our
Constitution by Law and Charter, and submitting to
an ill Management destructive to the whole. At which
I cannot say, I am surprized, because I am not now
to admire at any Perversion or Degree of Disingenuity,
from that Quarter in this Cause; of which whether
this be an Instance or not, others will judge. But I
must hereupon take the Freedom of giving him a Caution;
viz That if he resolve to Rake into those unhappy
Times, to which he too justly applies the Word Tragedy
it may tempt me, who have it in my Power, from good
Originals, his own Draughts, Letters, &c. to entertain
the World with what would much better be for ever
sunk in Oblivion, viz: The History of his Conduct in
this Province from the Year 1700. when he first let in
his mighty Resentments, on being removed by Order
of the Lord Justices in 1699. from all Offices of Trust
and Power, to the Year 1710. when the Country, quite
tired with his Impositions, served him on their Part,
as the Regal Authority had done before. But as I have
the highest Aversion to such fruitless Contention; and
as it would engage me to revive the Memory also of
his nearest Associates, now deceased, whose Names
and Characters ought rather to lie buried in Silence
with them in their Graves; nothing less than Necessity
shall oblige me to so disagreeable a Task. I must
however tell D. L. that when he presided not in the
Assembly, Colonel Evans was provided for not only
by a large Sum given at once, but by a further Approp-
riation for three Years, which tho’ somewhat scanty,
yet continued during his Time in the Administration.
But upon the Occasion here given, and the Notice he
has, elsewhere in his Paper taken of Ordinances, I am obliged with more Plainness to tell him, and inform the World, that the Point in Difference between that Gentleman and the Assemblies, wherein D. L. truly presided, which made the most Noise, was the Establishment of Courts, that had fain in 1706. by the Repeal of a former Act for appointing them. The Governour applied to the Assembly to restore them by a Law; and a Matter of this Importance, all rational Men expected, might without Delay or Difficulty be dispatched. But all those Expectations proved vain. D. L. Talents that Way were relied on, and for a Proof of them after a Months Adjournment, he produced a vast Bill of about 20 Sheets, crowded with Matters, so far from being essential to the Constitution of Courts, that some of them were never before, nor have never since, in these Parts, to the best of my Knowledge, been either proposed or heard of; yet by the Influence and Management of the Draughtsman, they were so strenously insisted on, under the Name of Privileges, (of which the Licensing of Publick Houses solely by the Justices was one) that unless the Governour would give into them, the Country must still languish, under an entire Stop to the Administration of Justice, of which they had been deprived, for about twelve Months before. The Governour hereupon, after many fruitless Endeavours, for a Law, had Resort to the only proper Expedient in his Power, which was to restore them by an Ordinance, the sole Method that had been allow’d by the Crown, in some of our Neighbouring Governments. And the more effectually to prevent exceptions, this was drawn, as near as could be, in the express Terms of D. L’s Bill, in all the Parts essential to the Constitution of our Courts; as their Number, their Nature, their Terms or Times of Sitting, with what else was truly necessary for a regular and uniform Establishment of them, throughout the Province. Yet such was D. L’s Opposi-
tion at that Time that this necessary Provision for procuring to the People their primary and greatest of all Rights in Government, was so highly Remonstrated, and declaimed against, as illegal, because not founded on an Act of Assembly; and so wildly were the Inhabitants aroused, that I have seen some who had been summoned to serve on a Grand-Jury, in a Court of Quarter-Sessions, openly in the Face of the Court deny its Jurisdiction; which whenever the Tragedy of that Time, mentioned by D. L. comes to be wrote, I suppose, may properly be allowed to make one fine Scene of it. Yet on the other Hand, when in the Year 1719. On the Repeal of another Act of the same Kind, our present Governour in affirnance of our Constitution as the Words are, or to prevent any Stop or Failure in the Administration of Justice, thought fit to continue the Courts, without waiting or applying for either Law or Ordinance; we then saw the Quondam great Patriot for these Privileges, as now Older and Wiser, very quietly submitting, and without any other Appointment than a Commission and a Salary, (which doubtless carries much Strength both in Law and Reason with it) acting in the highest Station of our Courts, condemning Criminals, &c, without Hesitation, all which, I here say, was acted well, and shews, that on proper Considerations, advanced Years may enable a Man to reform his Judgment in one Case tho' they may not on the old Core, till all contending Passions are laid equally quiet in the Dust. Yet in this Case, the least that could be expected (one would think,) from such a Patriot, in that Station, after such mighty Clamours in the Days of Tragedy, might have been to move for a Law at least: But for two Years and a half (the salary coming duly in) there was, as far as I have heard, a perfect Silence in the Matter till the late Attorney-General considering the Weakness of that Foundation for our Courts, thought it necessary to
move for one, and without any Delay obtained it. And so much for the Comparison. Thus having, if I mistake not, made good what I proposed, which was to shew the Weakness both of D. L's Law and Reasoning, and that his Reflections on the deceased Proprietary were unmerited and unjust; to the Breast of every considerate honest Man, I shall now leave it to be judged, how far consistent his Performance is with the Honour of this Government, either in Respect to our deceased Founder, his Family now living, or to any other Person acting under their Authority. He has called it, I hear, his Legacy, that when dead, he may yet speak; and no Man, I believe, will envy him the Reputation, of having his Memory and Sentiments, in that manner, perpetuated. I have been told also, that he pretends, he was called by the Assembly to the Work: But that nowhere appears, nor is it to be credited: He had only Leave to print it, as they ordered divers other Things to be published, not because they approved of them, but for another obvious Reason. I ought next to proceed to his Treatment of my self: But his Reflections are so unbecoming a Man of Spirit, and are so silly with their Spite, that I cannot think it worth either my own or my Reader's Time to consider them: His whole 12th Paragraph, closing with a Sting in its Tail at some One Person, is such a trifling Composition of Jargon; that the civillest Thing can be said of it, is to allow it no meaning at all; for granting it any, it must be only this, that in all Governments, where the Council has a Negative, that is in all the other English Governments in America, there is more Danger of Arbitrary Power in one Person, from Two Checks, than there can be from One; which is too irreverent toward an English Constitution, and too outrageous an Attack upon common Sense, to imagine it could be intended by him. But as he seems willing to trace a Great Example, that had been set before him,
in charging me with affecting Power, and is pleased to
distinguish me from the other Members of the Council-
Board; I must here in my own Vindication, once more
challenge all Mankind, to produce one single Instance,
where I have ever arrogated, courted or coveted Power,
in any publick Affair whatsoever: Or that during the
23 Years, that I have been of that Board I ever made
one Motion there, against the true Interest of the Coun-
try, for which I freely appeal to all the other Members
of it, now living. My own Conscience bears me witness
(and the angriest of my Enemies cannot prove the con-
trary, but) that I have been equally Faithful to the
Proprietary, and Just to the Inhabitants, yet Envy
against the One (with some Political Views elsewhere)
has laboured to incense the Others against me. I have
(also) been surprizingly charged with falsifying the
Council's Minutes: But the Event of that Inquiry, be-
fore its proper Judges, fully shews that Innocence is
not rashly to be attack’d, and possibly may prove, that
Weapons form’d against it may happen to return where
they were never expected, or intended.

I shall now come to his latest Clause, where for a
finishing Stroke he tries to put the Bear-Skin on me,
as if I were to be run down immediately in a common
Hunt: But I cannot have so mean an Opinion as he
seems to entertain of the Judgment of the People. 'Tis
true, they have sometimes been misled: Men may be
stagger’d by new Pretences, and false Colourings may
impose on their Understandings for a Time: But Recti-
tude is the natural Disposition of the Soul, and when
forced from it by Arts or Illusions, yet (like the Needle
panting after its Pole) being left to it-self, it will shew,
that Truth and Justice, are the real and adequate
Objects, of its Esteem, its Love, and Desire. I am not
therefore apprehensive of much Danger from tempo-
rary Mistakes. I have been charged with Disrespect
to some former Assemblies, and I acknowledge I have
blamed them: Both Kings and Parliaments have err’d
and Mankind have openly censured the one or the other (and some both) for certain Proceedings in England, towards the middle of the last Century: Yet this no ways derogates from either Regal or Parliamentary Authority the Powers of both being justly accounted as sacred, within their respective Limits. No Parliament, 'tis probable, was ever conven'd more regularly than that I have hinted, of Nov 1640. Yet all Men condemn their excessive Abuse of Power: No Assembly, perhaps was more duly elected, according to our Constitution, than that of 1709. yet the Country, at their next Choice, shew'd so entire a Dislike of their Proceedings against the Proprietary, that (as I was informed then in Britain) they were all turn'd out to a Man. I may therefore be allow'd to be still of the same Opinion with the Country, who never shew'd themselves more unanimous, than they did generally on that Occasion. Nor is it more a Crime to persist in it, than to be faithful to my Trust, the true Source of my Troubles here. But if, because I have opposed the unjust Attacks made upon the Proprietary, any can be so wild, as to imagine me disaffected to the true Interest and Privileges of the People, they must, when they consider my Circumstances in the Place, with my Family, either conceive me exceedingly blind to what regards my self, or acknowledge the gross Absurdity of supposing, that to strengthen an Interest, to which my Posterity can have no nearer Relation, than all the rest of the Province, I should favour the least Appearance of Oppression or Arbitrary Power, (were it true that Attempts of that kind had ever been made here) or deprive my Children of the least Advantage, they might in common with their Neighbours justly claim. No sensible Man who believes me Master of any competent Degree of Reason, can imagine this. On the contrary, I can truly affirm, my Views and Aims (however calumniated) have constantly been the same, viz Universally to promote Justice, the only Foundation,
on which any Establishment can become truly great, safe and honourable. And as I have already, in this Paper, taken Notice of that amiable Disposition to Love and Union, which with an honest Simplicity, and an open Integrity, shed a beautiful Lustre on the first Adventurers with the Proprietary into this Province; and which seem to have drawn down such a Blessing on their Endeavours, that the Settlement soon became the Wonder, at least, if not the Envy of the Colonies round us; so, nothing in relation to the Publick, has been more earnestly my Desire than that our Conduct might still continue a just claim to the same Esteem and Reputation. But alas! the Pale has been broke into. George Keith, the Grand Apollyon of this Country's Peace, gave the first fatal Blow. Hence the Minds of Numbers were tainted and soured, not only one against another, but against the Proprietary himself, who could not but condemn the Proceedings of that turbulent conceited Man, and from hence more easily succeeded those unnatural Disputes I have mentioned, joyned with Revenge, which cost the Country vast Sums, besides the Confusion, without the least Benefit to the People; had even all that was contended for, been gain'd. These 'twas thought, in 1710, were happily ended; and may the Spirit be for ever crushed, and never suffer'd to raise its monstrous Head again. Let the Proprietary, who is still our Governour in chief (and may he ever be encouraged to continue so) have his Own, as well as the People Theirs, with proper Securities from the Person He intrusts and not be placed in a worse Condition, by weak Pretences from the Law, or otherwise, than any private Man would be content with, in the minutest of his own Affairs, where he confides in another: Let us with an unshaken Regard to Right, study and promote the Credit and Honour, the true Interest and Peace of the Publick; ever guarding, as we would against Fire to our Houses, or Leaks at Sea, against that Grand Reproach, that
Destructive Bane, to Families, Communities, and Countries, Intestine Divisions. We are bless’d with mighty Privileges, not only those of an English Subject, to their utmost Extent, and those other plain Ones, granted by the Proprietary’s Charter; but these also, which can never be too highly valued, an Exemption from Racking Rents for Lands, oppressive Taxes, Tythes, and Military Appointments. Let us therefore be grateful and quiet, without hazarding any of those we really enjoy, by endeavouring, to be better than very well; which has ever been attended with Danger. Nor led by Sounds only, make our selves the Property of designing Men, who to compass their own Ends, amuse with the Charm of misunderstood Words, and empty deluding Prospects. Let us cheerfully support and obey the Regular Powers of Government, and as far as possible, preserve our publick Credit. These Things (if I mistake not) will truly redound to our Honour; and my hearty and constant Endeavours for these will be found the only Crimes, for which I can be charged, in Relation to this Province.

Philadelphia,

J. LOGAN.

Advertisement.

These are to certify all whom it may concern, that those ingenious Persons, who have heretofore, either in Print or Manuscript, treated any Thing I have wrote, with Scoffs, Invectives, Trifling Cavils, Drollery, Scurrility, &c, may freely go on in their Way; for I shall ever think such Performances, in what relates to myself, below my Notice. Nor shall I have more Regard to any Reply that may be offered to this Paper, unless the Law produced in it, be Standard, The Arguments carry some Reason, and the Assertions some Truth in them, and be to the Purpose: But I shall by my Silence, shew a just Contempt of every Thing relating to the Publick, that is not solid, or becomes not a serious, honest Man. 

J. L.